

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:

DAINON TARQUINIUS SIDNEY
605 LAKEMEADE PT
OLD HICKORY, TN 37138-2588

CASE NO. 10-01333-MH3-13
JUDGE MARIAN F HARRISON

SSN XXX-XX-7845

THE DEADLINE FOR FILING A TIMELY RESPONSE IS 7/1/2010.

IF A RESPONSE IS TIMELY FILED THE HEARING DATE WILL BE: 7/19/2010 AT 8:30 AM CUSTOMS HOUSE, COURTROOM 1, 701 BROADWAY, 2ND FL, NASHVILLE, TN , 37203.

**TRUSTEE'S NOTICE AND MOTION TO DISALLOW CLAIM OF
SUNTRUST BANK COURT'S CLAIM #7**

Henry E. Hildebrand, III, Chapter 13 Trustee, has asked the court for the following relief: **TO DISALLOW CLAIM OF SUNTRUST BANK.**

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion or if you want the court to consider your views on the motion, then on or before **7/1/2010** you or your attorney must:

1. File with the court your response or objection explaining your position. **PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE IS A MANDATORY ELECTRONIC CASE FILING COURT. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <https://ecf.tnmb.uscourts.gov>.**

If you need assistance with Electronic Case Filing you may call the Bankruptcy Court at (615)736-5584. The Bankruptcy Court may be visited in person at: US Bankruptcy Court, 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M.- 4:00 P.M.).

2. **Your response must state that the deadline for filing response is 7/1/2010, the date of the scheduled hearing is 7/19/2010 and the motion to which you are responding to is TO DISALLOW CLAIM OF SUNTRUST BANK.**
3. You must serve your response or objection on the movant's attorney **by electronic service through the Electronic Case Filing system** described above. You must also mail a copy of your response or objection to:

DAINON TARQUINIUS SIDNEY 605 LAKEMEADE PT, OLD HICKORY, TN 37138-2588

ATTORNEY FOR THE DEBTOR:

ROTHSCHILD AND AUSBROOKS PLLC 1222 16TH AVE SOUTH SUITE 12, , NASHVILLE, TN 37212

CHAPTER 13 TRUSTEE P O BOX 190664, NASHVILLE TN 37219-0664

UNITED STATES TRUSTEE CUSTOMS HOUSE, ROOM 318, NASHVILLE TN 37203

SUNTRUST BANK ATTN: BKRTCY DEPT, P O BOX 85092, RICHMOND, VA 23286

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by calling the Clerk's office at 615-736-5584. If you received this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order

/s/ Henry E. Hildebrand, III
HENRY E. HILDEBRAND, III
CHAPTER 13 TRUSTEE
P O BOX 190664
NASHVILLE, TN 37219-0664
PHONE: 615-244-1101
FAX: 615-242-3241
pleadings@ch13nsh.com

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CASE NO. 10-01333-MH3-13
JUDGE MARIAN F HARRISON

SSN XXX-XX-7845

**MOTION TO DISALLOW CLAIM OF
SUNTRUST BANK COURT'S CLAIM #7**

Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters in the Middle District of Tennessee, respectfully requests this Court disallow the proof of claim asserted on behalf of SUNTRUST BANK, filed as claim #7 on the Court's claims register. In support thereof, the Trustee would state as follows:

The name of the creditor on the face of the proof of claim is not supported by the documents attached. Without such documentary support, the asserted creditor lacks standing to enforce any asserted claim and, therefore, the claim should be disallowed under 11 U.S.C. § 502(b)(1). The claim also fails to satisfy Rule 3001(c), which requires that, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, an original or duplicate of the writing must be filed with the proof of claim.

The arrearage is not itemized. Without such itemization, the creditor has not established that the claim is enforceable and, therefore, the claim should be disallowed under 11 U.S.C. § 502(b)(1). In addition, the lack of adequate itemization prevents the Court, the debtor(s), and the Trustee from reviewing any asserted fees, costs, and/or charges for compliance with 11 U.S.C. § 506(b). Rule 3001(a) requires a proof of claim to conform substantially to the Official Form. The official form for proofs of claim, Official Form 10, requires a creditor asserting a claim that includes interest or other charges to attach an itemized statement of the interest or charges.

The current monthly payment is not provided or not itemized. A failure to provide the current monthly payment impedes the Trustee's ability to administer a "long term" debt provided for under 11 U.S.C. § 1322(b)(5). In addition, a failure to itemize the current monthly payment prevents adequate review of the enforceability of the claim under 11 U.S.C. § 502(b)(1), including review to ensure that any asserted arrearage amount does not include amounts recovered through the current monthly payment.

WHEREFORE, the premises considered, the Trustee requests that this court disallow the proof of claim asserted by SUNTRUST BANK, filed as claim #7 on the Court's claims register.

Respectfully submitted,

/s/ Henry E. Hildebrand, III
HENRY E. HILDEBRAND, III
CHAPTER 13 TRUSTEE
P O BOX 190664
NASHVILLE, TN 37219-0664
PHONE: 615-244-1101
FAX: 615-242-3241
pleadings@ch13nsh.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on DAINON TARQUINIUS SIDNEY, 605 Lakemeade Pt, Old Hickory, TN 37138-2588 and ROTHSCHILD AND AUSBROOKS PLLC, 1222 16TH AVE SOUTH SUITE 12, , NASHVILLE, TN 37212; to all affected creditors and to Ms Beth R Derrick, Assistant US Trustee, 313 Customs House, 701 Broadway, Nashville Tn, 37203, on this 1st day of June, 2010.

/s/ Henry E. Hildebrand, III
HENRY E. HILDEBRAND, III

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FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:)	
DAINON TARQUINIUS SIDNEY)	
605 LAKEMEADE PT)	CASE NO. 10-01333-MH3-13
OLD HICKORY, TN 37138-2588)	
)	JUDGE MARIAN F HARRISON

SSN XXX-XX-7845

**ORDER TO DISALLOW CLAIM OF
SUNTRUST BANK COURT'S CLAIM #7**

It appearing to the Court, based upon the certification of the Trustee, as indicated by his electronic signature below, that the Trustee has filed a motion seeking to disallow the claim of the below-listed creditor due to:

The name of the creditor on the face of the proof of claim is not supported by the documents attached;

The arrearage is not itemized;

The current monthly payment is not provided or not itemized;

that the Trustee has served notice of the motion on the claimant, the debtor and debtor's counsel, providing them the opportunity to object to the motion; and that the Trustee has received no objection to the motion as required by Rule 9014-1 of the Local Rules of the Bankruptcy Court for the Middle District of Tennessee, it is therefore

ORDERED, that the claim asserted by the creditor below is disallowed.

Creditor Name: SUNTRUST BANK
Court's Claim Number: 7
Account Number: 7845

APPROVED FOR ENTRY:

/s/ Henry E. Hildebrand, III
HENRY E. HILDEBRAND, III
CHAPTER 13 TRUSTEE
P O BOX 190664
NASHVILLE, TN 37219-0664
PHONE: 615-244-1101
FAX: 615-242-3241
pleadings@ch13nsh.com

THIS ORDER WAS SIGNED AND ENTERED
ELECTRONICALLY AS INDICATED AT THE TOP
OF THE FIRST PAGE.